IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 3109 OF 1992

Babu Amin Korati ..Petitioner

vs

Balaji Spinning & Weaving .. Respondent
Mills

..

Mr.R.V.More for Petitioner

Mrs.R.S.Deshpande for Respondent

CORAM : D.G.KARNIK, J

DATE: 30TH AUGUST, 2004.

P.C.

1. By this petition, the petitioner-tenant challenges the judgment and order dated 24th March,1992 passed by the IInd Additional District Judge, Sangli dismissing his appeal bearing Regular Civil Appeal No.430 of 1984 and confirming the decree for possession passed by the learned Civil Judge, Junior Division, Sangli in Regular Civil Suit No. 250 of 1981.

2. The petitioner is a tenant in a chawl owned by the respondent. The respondent runs a factory and employees of the factory are accomodated in the suit chawl. The petitioner was employed under the respondent from the

year 1962. According to the respondent, the petitioner was given on rent the suit premises by reason of his being in employment. The petitioner ceased to be in employment of the respondent in the year 1976. Thereafter, the suit was filed by the respondent for possession on various grounds including the ground under section 13 (1) (f) of the Bombay Rents, Hotel and Lodging House Rates Control, Act 1947 (for short the Act). The trial Court held that the suit premises were given on rent to the petitioner by reason of his being in employment of the respondent and that he had ceased to be in employment and therefore passed a decree under section 13 (1) (f) of the Act. It also passed a decree on the ground of default. On appeal, the appellate Court confirmed the decree under section 13 (1)(f).

That judgment is impugned in this petition.

3. Learned counsel for the petitioner submits that the suit premises were let out to the petitioner in the year 1961 while he joined employment of the respondent in the year 1962. The suit premises were not let out to the petitioner by reason of his being in employment of the respondent as the tenancy commenced prior to employment. The trial Court has held that the suit premises were let out to the petitioner by reason of his being in the employment of the respondent. The appellate Court has

confirmed the said finding. Learned counsel for the respondent submits that whether the suit premises were let out to the petitioner in the year 1962 by reason of his being in employment of the respondent is a pure question of fact and cannot be interfered within exercise of writ jurisdiction under Article 227 of the Constitution of India. The learned counsel relies upon the decision of the Supreme Court in Bhabhutmal Raichand vs Laxmibai Tarte reported in 1974 BLR 218 = AIR 1975 Supreme Court 1297. It is clear that whether the suit premises were let out to the defendants by reason of his being in employment or not is a pure question of fact not involving any questions of law. The finding recorded by the Courts below is not shown to be perverse. In the circumstances, the said finding cannot be interfered with in exercise of writ jurisdiction.

4. There is no merit in the petition which is hereby dismissed. Rule discharged. In the facts and circumstances of the case, parties shall bear their own costs.

D.G.KARNIK, J